
Public Notice

Applicant:

Catholic
Association and Garfield
Alloys, Incorporated

Date:

Cemeteries Published:
Expires:

**U.S. Army Corps
of Engineers**

In Reply Refer To:

Buffalo District **CELRB-CO-R RE:** 98-494-0049(0) **Section:** OH 404

**Application for Permit under Authority of
Section 404 of the Clean Water Act (33 U.S.C. 1344).**

The Catholic Cemeteries Association of Cleveland, Calvary Cemetery, 10000 Miles Avenue, Cleveland, Ohio 44105, and Garfield Alloys, Incorporated, 4878 Chaincraft Road, Cleveland, Ohio 44105, have jointly applied for a Department of the Army permit to place fill in two abandoned and contaminated quarry ponds, totaling 30.72 acres, including 0.52 acre of wetlands.

The project will be constructed in two phases as follows: Phase I: Placement of 800,000 cubic yards of sewer tunnel gangue (waste rock, consisting of unconsolidated shale removed during a mining operation) in the easterly pond and wetlands while concurrently constructing the mitigation stream and wetlands (see below); Phase II: Fill and cap the westerly pond with an additional 600,000 cubic yards of gangue remaining from the tunnel excavation, and any additional fill necessary for completion of the project to proposed elevations. Both phases are expected to be completed in 5-10 years depending on availability of fill material.

As mitigation for the loss of 30.72 acres of waters of the United States, including 0.52 acre of wetlands, the applicants have proposed the restoration of 1900 linear feet of the Johnston Branch of Mill Creek as a stable channel, with a riparian buffer capable of containing a 100-year storm event and including at least one acre of wetland. The Johnston Branch currently empties into the easterly pond and outlets from the pond, under an existing Conrail track into Mill Creek.

The applicants' stated purposes for the project are as follows:

- 1) to provide a cemetery access road from 131st Street and expand cemetery operations;
- 2) to improve the aesthetics of the cemetery by eliminating the presumably unsightly and contaminated industrial quarry ponds;
- 3) to cap the two contaminated quarry ponds and eliminate the resultant pollution of the Johnston Branch of Mill Creek; and

4) to provide a cost-effective location for the disposal of 1.4 million cubic yards of gangue resulting from the construction of a nearby proposed sewer tunnel. The sewer tunnel has been planned by the Northeast Ohio Regional Sewer District and is not a subject of this notice.

Background Information: In the early 1950s, a quarry operator commenced mining and by 1955 the basins for the easterly and westerly quarry ponds were developed in their present configuration. In the early 1960s Garfield Alloys, Incorporated, commenced a recycling operation adjacent to the abandoned quarry ponds. The recycling operation included the discharge of dross (waste material from smelting operations) into the easterly pond. Subsequently, the contaminated sediments dispersed to include the westerly pond. In addition, the Johnston Parkway branch of Mill Creek flows through the easterly pond and thus has the potential to receive contaminants from the pond.

In 1986, the Ohio Environmental Protection Agency (OEPA) ordered Garfield Alloys to cease discharge of the dross, which had resulted in the contamination of the abandoned quarry ponds and the Johnston Parkway branch of Mill Creek. The OEPA order identified Magnesium as the principal contaminant. However, the OEPA order did not require the remediation of existing contaminated sediments. The applicants propose that the gangue will provide an effective barrier between Johnston Parkway branch of Mill Creek and the contaminates, thus preventing future contamination of Mill Creek and downstream waters.

Location and details of the above described work are shown on the attached maps and drawings. The site is bounded by Miles Road on the North, 131st Street on the East, and Broadway Avenue (Route 14) on the South and West.

Questions pertaining to the work described in this notice should be directed to Theresa B. Hudson, who can be contacted by calling (440) 437-5840, or by e-mail at: Theresa.B.Hudson@usace.army.mil

The following authorization(s) may be required for this project:

Water Quality Certification (or waiver thereof) from the Ohio Environmental Protection Agency.

There are no registered historic properties or properties listed as being eligible for inclusion in the National Register of Historic Places that will be affected by this project.

In addition, available evidence indicates that the proposed work will not affect a species proposed or designated by the U.S. Department of the Interior as threatened or endangered, nor will it affect the critical habitat of any such species.

This notice is promulgated in accordance with Title 33, Code of Federal Regulations, parts 320-330. Any interested party desiring to comment on the work described herein may do so by submitting their comments, in writing, so that they are received no later than 4:30 pm on the expiration date of this notice.

Comments should be sent to the U. S. Army Corps of Engineers, Orwell Field Office, 33 Grand Valley Avenue, Orwell, Ohio 44076-9566, and should be marked to the attention of Theresa B. Hudson, or by e-mail at: Theresa.B.Hudson@usace.army.mil. A lack of response will be interpreted as meaning that there is no objection to the work as proposed.

Comments submitted in response to this notice will be fully considered during the public interest review for this permit application. All written comments will be made a part of the administrative record. Due to resource limitations, this office will normally not acknowledge the receipt of comments or respond to individual letters of comment.

Any individual may request a public hearing by submitting their written request, stating the specific reasons for holding a hearing, in the same manner and time period as other comments.

Public hearings for the purposes of the Corps permit program will be held when the District Commander determines he can obtain additional information, not available in written comments, that will aid him in the decision making process for this application. A Corps hearing is not a source of information for the general public, nor a forum for the resolution of issues or conflicting points of view (witnesses are not sworn and cross examination is prohibited). Hearings will not be held to obtain information on issues unrelated to the work requiring a permit, such as property ownership, neighbor disputes, or the behavior or actions of the public or applicant on upland property not regulated by the Department of the Army. Information obtained from a public hearing is given no greater weight than that obtained from written comments. Therefore, you should not fail to make timely written comments because a hearing might be held.

The decision to approve or deny this permit request will be based on an evaluation of the probable impact, including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among these are conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Paul G. Leuchner
Chief, Regulatory Branch

NOTICE TO POSTMASTER: It is requested that this notice be posted continuously and conspicuously for 30 days from the date of issuance.